

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

SURREY VACATION RESORTS, INC.,
d/b/a GRAND CROWNE RESORTS,

Plaintiff,

v.

THE SURREY PHASE IV OWNERS'
ASSOCIATION, INC., d/b/a CARRIAGE
PLACE OWNER ASSOCIATION,

THE SURREY GRAND CROWNE RESORT
OWNERS ASSOCIATION, INC.,

and

THE SURREY CONDOMINIUM
ASSOCIATION, INC.

Defendants and Third-Party
Plaintiffs and
Counterclaimants,

v.

LEON BASYE,

CAPITAL RESORTS GROUP, LLC,

CRG CLUB TRUST, INC.,

JASON KERSI SHROFF,

DONALD CHRISTOPHER MYERS,

and

ALEX HODGES,

Third-Party Defendants.

Case No. _____

State Case No. 15AF-CC00257

NOTICE OF REMOVAL

COMES NOW Plaintiff Surrey Vacation Resorts, Inc., by and through counsel undersigned, and hereby gives notice of the removal of this cause of action to the United States District Court for the Western District of Missouri, Southern Division. In support of said Notice of Removal, Plaintiff hereby states as follows:

PROCEDURAL STATUS OF THE CASE

1. On or about April 2, 2015, Plaintiff Surrey Vacation Resorts, Inc. initiated a civil action in the Circuit Court of Taney County, Missouri, by filing a petition ("Petition") against The Surrey Phase IV Owners' Association d/b/a Carriage Place Owners' Association, The Surrey Grand Crowne Resort Owners' Association, Inc., and The Surrey Condominium Association, Inc., (hereinafter the "Associations").

2. On April 30, 2015, Defendant Associations filed an Answer to the Petition ("Answer").

3. On May 4, 2015, Defendant Associations filed counterclaims ("Counterclaims") against the Plaintiff Surrey Vacation Resorts, Inc. which included third-party claims against Third-Party Defendants Leon Basye, Capital Resorts Group, LLC, CRG Club Trust, Inc., Jason Kersi Shroff, Donald Christopher Myers, and Alex Hodges ("Third-Party Defendants").

4. The Counterclaims included claims under the Racketeer Influenced and Corrupt Organization Act ("RICO") 18 U.S.C. §§ 1961, *et seq.*

5. Plaintiff Surrey Vacation Resorts, Inc. has not yet filed a responsive pleading to the Counterclaims.

6. The Notice of Removal is being filed in the record office of the clerk of the

United States District Court for the Western District of Missouri, Southern Division.

BASIS FOR FEDERAL COURT ORIGINAL JURISDICTION

7. Defendants' Counterclaims and third-party claims allege violations of RICO, 18 U.S.C. §§ 1961, *et seq.* A copy of the Counterclaims which include third-party claims is included in Exhibits I through L which is attached hereto and is incorporated herein by this reference. Defendants are seeking recovery under RICO, 18 U.S.C. §§ 1961.

8. 28 U.S.C. § 1337(a) provides that Federal District Courts shall have original jurisdiction of any civil action arising under any Act of Congress regulating commerce.

9. As RICO is an Act of Congress regulating commerce, this court has original jurisdiction over the Counterclaims and the third-party claims. *Corpe, et. al. v. Bank of America, N.A., et. al.*, 2013 WL 237595 *3 (W.D.Mo. Jan. 22, 2013) (J. Gaitan). Pursuant to 28 U.S.C. § 1441(a), any civil action filed in state court over which the Federal District Courts would have original jurisdiction may be removed.

10. The other claims contained within Defendants' Counterclaims and Third-Party Claims not arising under RICO are also subject to the jurisdiction of this Court pursuant to 28 U.S.C. § 1441(c). Additionally, the claims contained within Plaintiff's Petition fall within this Court's supplemental jurisdiction as well under 28 U.S.C. § 1441(c).

PROPRIETY OF REMOVAL

11. This Notice of Removal is timely because it is filed within thirty (30) days of Plaintiff's receipt of the Counterclaims in accordance with 28 U.S.C. § 1446(b).

12. This court has original jurisdiction of this matter under 28 U.S.C. § 1337(a).

13. This matter is properly removable under 28 U.S.C. § 1441, and is not barred by

28 U.S.C. § 1445.

14. Pursuant to 28 U.S.C. § 1446(a), Plaintiff has attached as Exhibits A through T, a copy of the Petition, the Counterclaims which includes the third-party claims, and all other process, pleadings and other orders filed in the state court civil action that is being removed to federal court.

15. Pursuant to 28 U.S.C. §§ 1446(a) and (d), Plaintiff will file a copy of this Notice of Removal with the Circuit Court of Taney County, Missouri, will provide prompt notice to all adverse parties, and will file proof of service of all notices and filings with the Clerk of the United States District Court for the Western District of Missouri, Southern Division.

16. Attached hereto as Exhibit U is a Consent to Removal by CRG Club Trust, Inc. and Leon Basye. Leon Basye is the only Third-Party Defendant whose return of service of process has been filed in the state court proceeding prior to the filing of this Notice of Removal.

17. Plaintiff reserves the right by subsequent motion or notice to raise any and all additional bases for removal as may become apparent or known to Plaintiff.

REQUEST FOR HEARING & JURISDICTIONAL DISCOVERY

18. If Defendant contests this removal, Plaintiff requests:

A. a hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;


B. the opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and

C. leave to conduct limited discovery related to those issues.

WHEREFORE, Plaintiff removes the above-captioned matter from the Circuit Court of

Taney County, Missouri to the United States District Court for the Western District of Missouri,
Southern Division.

NEALE & NEWMAN, L.L.P.

By: /s/ Daniel Wooten 
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served electronically to those parties who have entered an appearance in the Court's Electronic Court Filing (ECF) System and conventionally, via first-class mail, postage prepaid, to those parties who have requested notice but are not participating in the ECF System, on this 28th day of May, 2015.

NEALE & NEWMAN, L.L.P.

By: /s/ Daniel Wooten 
Daniel K. Wooten, #48061